

Notice of Allowability

Application No.

09/772,261

Examiner

Freda A. Nelson

Applicant(s)

SMITH, GORDON JAMES

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment After Final filed on July 18, 2005.
2. ☒ The allowed claim(s) is/are 8,9 and 11-17.
3. ☒ The drawings filed on 29 January 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 08/03/2005.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Response to Amendment

The amendment received on July 18, 2005 is acknowledged and entered. Claims 1-7 have been canceled. No claims have been added. Claims 8-9 and 11-17 are currently pending.

Claims rejections under 35 USC § 101 and 35 USC § 103 have been withdrawn due to the applicant's amendment.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Roy W. Truelson (Reg. No. 34,265) on August 3, 2005.

The application has been amended as follows:

IN THE CLAIMS

8. (Currently Amended) A computer implemented method of automatically pricing fuel during a remote point of purchase action at a refueling facility, said method comprising the steps of:

(a) receiving a purchase option selection from a purchaser, said selection including a first fuel price, during a transaction at the refueling facility, said

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purchase option selection being received at a terminal of a computer-controlled fuel dispensing device of said refueling facility;

(b) receiving an indication of any passengers accompanying the purchaser in a vehicle;

(c) automatically calculating a second fuel price based upon a quantity of said any passengers indicated in step (b), wherein the second fuel price is lower than the first fuel price when there is at least one passenger accompanying the purchaser, said automatically calculating step being performed by a computer controlling said computer-controlled fuel dispensing device; and

(d) responsive to step (c) permitting the purchaser to purchase fuel at the second fuel price from said computer-controlled fuel dispensing device; and

(e) wherein steps (a) and (b) require the purchaser and each of said any passengers to enter information with a data storage device.

10. (Canceled)

Allowable Subject Matter

Claims 8-9 and 11-17 are allowed.

The following is an examiner's statement of reasons for allowance:

As per independent claims 8 and 14, the best prior art, Marion (US PG Pub. 2002/0046117) discloses a fuel dispensing and retail system for providing a transaction discount for transponder use.

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However, Marion does not teach automatically calculating a second fuel price based upon a quantity of said any passengers wherein the second fuel price is lower than the first fuel price when there is at least one passenger accompanying the purchaser, said automatically calculating step being performed by a computer controlling said computer-controlled fuel dispensing device.

The best NPL prior art, Scott Sonders, while disclosing incentives for safe hitchhiking by permitting the driver to collect redeemable coupons from riders for a discount on a gasoline purchase, fails to disclose receiving information with respect to any passengers accompanying the purchaser in a vehicle at the terminal from a respective personal data storage device issued to each of the passengers.

The best foreign art, Lee (KR 2001016262 A), discloses a charged car pool agent site on the Internet which automatically process the car pool so that a car driver and a car pool user can select a desired car pool service and car, however fails to disclose automatically pricing fuel during a remote point of purchase action at a refueling facility.

The remaining dependent claims are considered allowable, as they are dependent and based off of an allowable independent claim.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

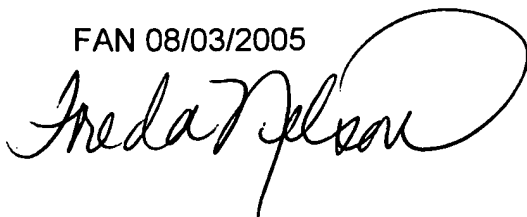
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FAN 08/03/2005


JOHN W. HAYES
PRIMARY EXAMINER